



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0273/<sup>2</sup>  
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2009 BILL

2/27/09

Regen

1 AN ACT *to repeal* 460.04 (3), 460.04 (4), 460.05 (3), 460.14 (4) and 460.15 (2); *to*  
2 *renumber and amend* 15.407 (7), 460.01 (1), 460.01 (2), 460.03, 460.04 (1),  
3 460.06, 460.10 and 460.15 (1); *to amend* 15.08 (1m) (b), 146.81 (1) (hp), 146.997  
4 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1) (ar) 1., 440.03 (13) (b) 38., 440.08 (2)  
5 (a) 46r., chapter 460 (title), 460.01 (3), 460.01 (4), 460.02, 460.04 (title), 460.04  
6 (2) (intro.) (a) and (e), 460.05 (title), 460.05 (1) (intro.), 460.05 (1) (c), 460.05 (1)  
7 (e), 460.05 (1) (g), 460.05 (2), 460.07 (1), 460.07 (2) (intro.), 460.07 (2) (c), 460.07  
8 (2) (d), 460.09, 460.11, 460.12 (1), (2), (3), (4) and (5) (b), 460.13, 460.14 (1),  
9 460.14 (2) (intro.), 460.14 (2) (a), 460.14 (2) (b), 460.14 (2) (e), 460.14 (2) (h),  
10 460.14 (2m) (intro.), 460.14 (3), 460.17, 895.48 (1m) (a) (intro.) and 2. and 908.03  
11 (6m) (a); and *to create* 15.405 (6r) (a) 2., 460.01 (1g), 460.03 (1m) (c), 460.03  
12 (2m), 460.04 (1m), 460.04 (2) (f), 460.04 (2) (g), 460.08, 460.095 and 460.10 (1)  
13 (b) of the statutes; **relating to:** changes to the regulation of massage therapy

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- 1 and bodywork, creating the Massage Therapy and Bodywork Therapy  
2 Examining Board, and granting rule-making authority.
- 

***Analysis by the Legislative Reference Bureau***

This bill makes a number of changes to the regulation of massage therapists and bodyworkers.

Under current law, a person may be certified as a massage therapist or bodyworker by the Department of Regulation and Licensing (department). The department is served in an advisory capacity by the Massage Therapy and Bodywork Council, which reviews and may comment on any rules proposed by the department. The council consists of seven members who are certified as massage therapists or bodyworkers.

The bill creates a Massage Therapy and Bodywork Therapy Examining Board (board) in the department and transfers rule-making powers to the board. The bill directs the board to license, not certify, persons who fulfill the requirements for licensure as massage therapists or bodyworker therapists. The bill also permits the board to grant a temporary license to practice massage therapy or bodywork therapy for a period not to exceed six months, and requires the board to establish requirements for temporary licensure by rule.

This bill changes uses of the term, "massage therapy or bodywork," to "massage therapy or bodywork therapy," and changes uses of the term, "bodyworker," to "bodywork therapist."

The bill requires one of the seven members of the board to be a representative of a massage therapy or bodywork therapy school approved by the Educational Approval Board, and one member of the board to be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members of the board may be affiliated with a massage therapy or bodywork therapy school or program. The bill also requires one member of the board to be a member of the public.

Current law prohibits a person who is not certified by the department from designating himself or herself as a massage therapist or bodyworker or using any title that represents that he or she is certified. With one exception noted below, this bill permits persons who are exempt from the licensing requirement to use the terms, "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice. The bill also creates the following two new exemptions from the licensing requirement:

1. A person who manipulates only the soft tissue of the hands, feet, and ears. Persons who fall under this exemption may not represent or imply that their services are massage therapy or bodywork therapy.

X 2. A person whose practice involves the use of touch or touch and movement to assist and bring body awareness to ~~their~~ clients and who is recognized by a professional organization or credentialing association after that person has demonstrated an adequate level of training and competency.

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Under current law, an applicant for certification must have passed an examination offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination administered by the National Commission for Certifying Agencies. This bill requires an applicant for licensure to achieve a passing grade on a nationally administered entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the board. The bill also requires all applicants for a license to pass an examination on state laws and rules governing massage therapy and bodywork therapy. The bill requires the board to prepare the state examination. The bill further requires massage therapy and bodywork therapy schools in Wisconsin to provide and require as a prerequisite to graduation the completion of a course on the state laws and rules and to administer, require as a prerequisite to graduation, and grade the state examination.

Under current law, there are no requirements governing massage therapy or bodywork therapy instructors in Wisconsin. This bill requires instructors teaching courses in anatomy, physiology, kinesiology, and pathology at a school of massage therapy or bodywork therapy to have completed two years of post-secondary education and training <sup>or</sup> and to have professional training and two years of experience in a health-related field. The bill also requires instructors teaching courses in the theory and practice of massage therapy or bodywork therapy at a school of massage therapy or bodywork therapy to be licensed as a massage therapist or bodywork therapist and either two years as a practicing professional or formal education and training as a massage therapy or bodywork therapy instructor.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:
- 2           **15.08 (1m) (b)** The public members of the chiropractic examining board, the
- 3           dentistry examining board, the hearing and speech examining board, the medical
- 4           examining board, perfusionists examining council, respiratory care practitioners
- 5           examining council and council on physician assistants, the board of nursing, the
- 6           massage therapy and bodywork therapy examining board, the nursing home
- 7           administrator examining board, the veterinary examining board, the optometry
- 8           examining board, the pharmacy examining board, the marriage and family therapy,
- 9           professional counseling, and social work examining board, and the psychology

**BILL****SECTION 1**

1 examining board shall not be engaged in any profession or occupation concerned with  
2 the delivery of physical or mental health care.

3 **SECTION 2.** 15.405 (6r) (a) 2. of the statutes is created to read:

4 15.405 (6r) (a) 2. One public member.

5 **SECTION 3.** 15.407 (7) of the statutes is renumbered 15.405 (6r), and 15.405 (6r)  
6 (a), (b) (intro.), 2. and 3., as renumbered, are amended to read:

7 15.405 (6r) ~~MASSAGE THERAPY AND BODYWORK COUNCIL~~ THERAPY EXAMINING BOARD.

8 (a) There is created a massage therapy and bodywork ~~council~~ therapy examining  
9 board in the department of regulation and licensing, ~~serving the department in an~~  
10 ~~advisory capacity.~~ The ~~council~~ examining board shall consist of the following 7  
11 ~~members, appointed for 4-year terms, who are:~~

12 1. Six massage therapists or ~~bodyworkers~~ certified bodywork therapists  
13 licensed under ch. 460 and who have engaged in the practice of massage therapy or  
14 bodywork therapy for at least 2 years preceding appointment. One member  
15 appointed under this subdivision shall be a representative of a massage therapy or  
16 bodywork therapy school approved by the educational approval board under s. 38.50.  
17 One member appointed under this subdivision shall be a representative of a massage  
18 therapy or bodywork therapy program offered by a technical college in this state. No  
19 other members appointed under this subdivision shall be directly or indirectly  
20 affiliated with a massage therapy or bodywork therapy school or program.

21 (b) (intro.) In appointing members under par. (a), the governor shall ensure, to  
22 the maximum extent practicable, that the membership of the ~~council~~ examining  
23 board is diverse, based on all of the following factors:

24 2. Affiliation and nonaffiliation with a professional association for the practice  
25 of massage therapy or bodywork therapy.

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1           3. Professional associations with which massage therapists or ~~bodyworkers~~  
2 bodywork therapists in this state are affiliated.

3           **SECTION 4.** 146.81 (1) (hp) of the statutes is amended to read:

4           146.81 (1) (hp) A massage therapist or ~~bodyworker~~-certified bodywork  
5 therapist licensed under ch. 460.

6           **SECTION 5.** 146.997 (1) (d) 13. of the statutes is amended to read:

7           146.997 (1) (d) 13. A massage therapist or ~~bodyworker~~ bodywork therapist  
8 ~~issued a certificate~~ licensed under ch. 460.

9           **SECTION 6.** 180.1901 (1m) (ag) of the statutes is amended to read:

10           180.1901 (1m) (ag) The ~~department of regulation and licensing~~ massage  
11 therapy and bodywork therapy examining board under ch. 460.

12           **SECTION 7.** 252.15 (1) (ar) 1. of the statutes is amended to read:

13           252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does  
14 not include a massage therapist or ~~bodyworker~~ bodywork therapist ~~issued a~~  
15 ~~certificate~~ licensed under ch. 460.

16           **SECTION 8.** 440.03 (13) (b) 38. of the statutes is amended to read:

17           440.03 (13) (b) 38. Massage therapist or ~~bodyworker~~ bodywork therapist.

18           **SECTION 9.** 440.08 (2) (a) 46r. of the statutes, as affected by 2007 Wisconsin Act  
19 20, is amended to read:

20           440.08 (2) (a) 46r. Massage therapist or ~~bodyworker~~ bodywork therapist:  
21 March 1 of each odd-numbered year.

22           **SECTION 10.** Chapter 460 (title) of the statutes is amended to read:

23                                   **CHAPTER 460**

24                           **MASSAGE THERAPY AND BODYWORK THERAPY**

**BILL****SECTION 11**

1           **SECTION 11.** 460.01 (1) of the statutes is renumbered 460.01 (2m) and amended  
2 to read:

3           460.01 (2m) “~~Certificate~~ License holder” means a person granted a ~~certificate~~  
4 license under this chapter.

5           **SECTION 12.** 460.01 (1g) of the statutes is created to read:

6           460.01 (1g) “Adjunctive therapy” means any of the following:

7           (a) The use of a device that simulates or enhances a manual action.

8           (b) The application of water, lubricants, or other nonprescription topical agents  
9 to the skin.

10          (c) The application of heat or cold to the skin in the absence of an  
11 electromagnetic device.

12          **SECTION 13.** 460.01 (2) of the statutes is renumbered 460.01 (1r) and amended  
13 to read:

14          460.01 (1r) “~~Council~~ Examining Board” means the massage therapy and  
15 bodywork ~~council~~ therapy examining board.

16          **SECTION 14.** 460.01 (3) of the statutes is amended to read:

17          460.01 (3) “Manual action” includes holding, positioning, rocking, kneading,  
18 compressing, decompressing, gliding, or percussing the soft tissue of the human body  
19 or applying a passive range of motion to the human body without joint mobilization  
20 or manipulation.

21          **SECTION 15.** 460.01 (4) of the statutes is amended to read:

22          460.01 (4) “Massage therapy or bodywork therapy” means the science and  
23 healing art that uses manual actions and adjunctive therapies to palpate and  
24 manipulate the soft tissue of the human body, in order to improve circulation, reduce  
25 tension, relieve soft tissue pain, or increase flexibility, ~~and~~. “Massage therapy or

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1 bodywork therapy” includes determining whether ~~massage therapy or bodywork is~~  
2 manual actions and adjunctive therapies are appropriate or contraindicated, or  
3 whether a referral to another health care practitioner is appropriate. “Massage  
4 therapy or bodywork therapy” does not include making a medical, physical therapy,  
5 or chiropractic diagnosis.

6 **SECTION 16.** 460.02 of the statutes is amended to read:

7 **460.02 ~~Certificate~~ License required.** Except as provided in s. 460.03, no  
8 person may provide massage therapy or bodywork therapy, designate himself or  
9 herself as a massage therapist or ~~bodyworker~~ bodywork therapist, or use or assume  
10 the title “massage therapist and ~~bodyworker~~ bodywork therapist” or “massage  
11 therapist” or “~~bodyworker~~ bodywork therapist” or any title that includes “massage  
12 therapist,” bodywork therapist, or “bodyworker,” or append to the person’s name the  
13 letters “M.T.,” “R.M.T.,” “L.M.T.,” “C.M.T.,” “B.W.,” “B.T.,” “B.W.,” “L.B.W.,” “R.B.W.,”  
14 or “C.B.W.,” or use any other title or designation that represents or may tend to  
15 represent that he or she is ~~certified~~ licensed under this chapter, unless the person is  
16 ~~certified~~ licensed under this chapter.

17 **SECTION 17.** 460.03 of the statutes is renumbered 460.03 (1m) and amended  
18 to read:

19 **460.03 (1m) (intro.)** A ~~certificate~~ license under this chapter is not required for  
20 any of the following:

21 (a) A person holding a license, permit, registration, or certification granted by  
22 this state or the federal government who engages in a practice of massage therapy  
23 or bodywork therapy within the scope of his or her license, permit, registration, or  
24 certification and who does not imply that he or she is ~~certified~~ licensed under this  
25 chapter. A person who is exempt from licensure under this subsection may use the

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1 terms “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her  
2 practice.

3 (b) A person who is authorized to practice massage therapy or bodywork  
4 therapy in another state or country and is providing a consultation to or  
5 demonstration with a ~~certificate~~ license holder. A person who is exempt from  
6 licensure under this subsection may use the terms “bodywork,” “bodyworker,” and  
7 “bodywork therapy” to identify his or her practice.

8 **SECTION 18.** 460.03 (1m) (c) of the statutes is created to read:

9 460.03 (1m) (c) A person who manipulates only the soft tissues of the hands,  
10 feet, or ears of the human body, provided that the services are not represented or  
11 implied to be massage therapy or bodywork therapy.

12 **SECTION 19.** 460.03 (2m) of the statutes is created to read:

13 460.03 (2m) (a) A person who does any of the following and who satisfies the  
14 requirements of par. (b):

15 1. Uses touch, words, and directed movement to deepen a client’s awareness  
16 of his or her existing patterns of movement and to suggest to the client new patterns  
17 of movement.

18 2. Uses touch to affect the energy systems or acupoints of the human body.

19 3. Uses touch and movement education to effect change in the structure of the  
20 body while engaged in the practice of structural integration.

21 (b) The person is recognized by or meets the established standards of either a  
22 professional organization or credentialing association that recognizes a person in a  
23 practice after that person demonstrates an adequate level of training and  
24 competency and adherence to ethical standards. In this paragraph, “practice” means  
25 rolfing structural integration, the rolf method of structural integration, the rolf



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1 institute's rolf movement integration, hellerwork, the feldenkrais method, the trager  
2 approach, body-mind centering, polarity, polarity therapy, polarity bodywork  
3 therapy, and reiki.

4 (c) A person who is exempt from licensure under this subsection may use the  
5 terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her  
6 practice.

7 **SECTION 20.** 460.04 (title) of the statutes is amended to read:

8 **460.04 (title) Duties of department examining board.**

9 **SECTION 21.** 460.04 (1) of the statutes is renumbered 460.05 (4) and amended  
10 to read:

11 460.05 (4) The ~~department shall~~ examining board may assign a unique  
12 ~~certificate license~~ number to each person ~~certified license~~ under this chapter.

13 **SECTION 22.** 460.04 (1m) of the statutes is created to read:

14 460.04 (1m) The examining board shall prepare an examination on state laws  
15 and administrative rules governing massage therapy or bodywork therapy.

16 **SECTION 23.** 460.04 (2) (intro.) (a) <sup>(b)</sup> and (e) of the statutes are amended to read:  
17 460.04 (2) <sup>(intro.)</sup> The ~~department~~ examining board shall promulgate rules that

18 establish all of the following:

19 (a) Standards that govern the professional conduct of ~~certificate license~~ holders  
20 in practicing massage therapy or bodywork therapy. The standards shall prohibit  
21 a ~~certificate license~~ holder from having sexual contact or sexual intercourse with a  
22 client.

23 (e) A requirement that an applicant for a ~~certificate license~~ under this chapter  
24 submit evidence satisfactory to the ~~department~~ examining board that the applicant  
25 has current proficiency in the use of an automated external defibrillator achieved

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1 through instruction provided by an individual, organization, or institution of higher  
2 education approved under s. 46.03 (38) to provide such instruction.

3 **SECTION 24.** 460.04 (2) (f) of the statutes is created to read:

4 <sup>204</sup>  
460.04<sup>204</sup> (2) (f) Requirements to be satisfied by a person seeking a temporary

5 license under s. 460.08. The rules promulgated under this subsection shall require

6 the person to be a graduate of a massage therapy or bodywork therapy school<sup>or program</sup> and

7 may require the holder of a temporary license to make disclosures to clients and to

8 practice under the supervision of a massage therapist or bodywork therapist licensed

9 under this chapter.

10 **SECTION 25.** 460.04 (2) (g) of the statutes is created to read:

11 460.04 (2) (g) A requirement that an applicant for a license under this chapter  
12 pass an examination on state laws and administrative rules governing massage  
13 therapy and bodywork therapy.

14 **SECTION 26.** 460.04 (3) of the statutes is repealed.

15 **SECTION 27.** 460.04 (4) of the statutes is repealed.

16 **SECTION 28.** 460.05 (title) of the statutes is amended to read:

17 **460.05 (title) ~~Certification~~ Licensure of massage therapists or**  
18 **~~bodyworkers~~ bodywork therapists.**

19 **SECTION 29.** 460.05 (1) (intro.) of the statutes is amended to read:

20 460.05 (1) (intro.) The ~~department~~ examining board shall grant a certificate  
21 license as a massage therapist or ~~bodyworker~~ bodywork therapist to a person who  
22 satisfies all of the following:

23 **SECTION 30.** 460.05 (1) (c) of the statutes is amended to read:

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1           460.05 (1) (c) The person submits an application for the ~~certificate~~ license to  
2           the ~~department~~ examining board on a form provided by the ~~department~~ examining  
3           board.

4           **SECTION 31.** 460.05 (1) (e) of the statutes is amended to read:

5           460.05 (1) (e) Except as provided in sub. (2), the person submits evidence  
6           satisfactory to the ~~department~~ examining board that he or she has done all of the  
7           following:

8           1. Graduated from a school of massage therapy or bodywork therapy approved  
9           by the educational approval board under s. 38.50 that meets the requirements under  
10          s. 460.095 or completed a training program approved by the ~~department~~ examining  
11          board under the rules promulgated under s. 460.04 (2) (b).

12          2. Completed at least 6 classroom hours in the laws of this state and rules of  
13          the ~~department~~ examining board relating to the practice of massage therapy or  
14          bodywork therapy in a course of instruction approved by the ~~department~~ examining  
15          board.

16          **SECTION 32.** 460.05 (1) (g) of the statutes is amended to read:

17          460.05 (1) (g) The person submits evidence satisfactory to the ~~department~~  
18          examining board that he or she has in effect malpractice liability insurance coverage  
19          in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all  
20          occurrences in one year.

21          **SECTION 33.** 460.05 (2) of the statutes is amended to read:

22          460.05 (2) The ~~department~~ examining board may waive a requirement  
23          specified in sub. (1) (e) if a person establishes, to the satisfaction of the ~~department~~  
24          examining board, that he or she has education, training, or other experience that is  
25          substantially equivalent to the requirement.

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## SECTION 34

1           **SECTION 34.** 460.05 (3) of the statutes is repealed.

2           **SECTION 35.** 460.06 of the statutes is renumbered 460.06 (intro.) and amended  
3 to read:

4           **460.06 Examinations.** (intro.) The ~~department~~ examining board may not  
5 grant a ~~certificate~~ license under this chapter unless the applicant ~~passes~~ achieves a  
6 passing grade on the national certification following examinations:

7           **(1)** A nationally administered, entry-level competency examination for  
8 therapeutic massage and bodywork therapy that is ~~offered by the National~~  
9 ~~Certification Board for Therapeutic Massage and Bodywork or an examination~~  
10 ~~relating to the practice of massage therapy or bodywork that is administered by a~~  
11 ~~national board that is accredited by the National Commission for Certifying~~  
12 ~~Agencies~~ meets generally accepted psychometric principles and standards or a  
13 substantially equivalent examination approved by the ~~department~~ examining  
14 board.

15           **(2)** ~~The department shall promulgate rules that also require an applicant to~~  
16 ~~pass an examination on state laws and administrative rules governing massage~~  
17 ~~therapy or bodywork~~ therapy required under s. 460.04 (2) (g).

18           **SECTION 36.** 460.07 (1) of the statutes is amended to read:

19           460.07 (1) Each person who is ~~certified~~ licensed under this chapter shall  
20 conspicuously display the ~~certificate~~ license in the place of business where he or she  
21 practices massage therapy or bodywork therapy so that the ~~certificate~~ license can  
22 easily be seen and read.

23           **SECTION 37.** 460.07 (2) (intro.) of the statutes is amended to read:

24           460.07 (2) (intro.) ~~The renewal dates for certificates granted under this chapter~~  
25 ~~are specified under s. 440.08 (2) (a).~~ Renewal applications shall be submitted to the

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1 department on a form provided by the department on or before the applicable  
2 renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

3 **SECTION 38.** 460.07 (2) (c) of the statutes is amended to read:

4 460.07 (2) (c) Evidence satisfactory to the department examining board that  
5 the applicant has in effect malpractice liability insurance coverage in an amount that  
6 is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one  
7 year.

8 **SECTION 39.** 460.07 (2) (d) of the statutes is amended to read:

9 460.07 (2) (d) Evidence satisfactory to the department examining board that  
10 the applicant has current proficiency in the use of an automated external  
11 defibrillator achieved through instruction provided by an individual, organization,  
12 or institution of higher education approved under s. 46.03 (38) to provide such  
13 instruction.

14 **SECTION 40.** 460.08 of the statutes is created to read:

15 **460.08 Temporary license.** The examining board may grant a temporary  
16 license for a period not to exceed 6 months to an applicant who satisfies the  
17 requirements established in the rules under s. 460.04 (2) (f). A temporary license  
18 may not be renewed.

19 **SECTION 41.** 460.09 of the statutes is amended to read:

20 **460.09 Reciprocal certificate.** Upon application and payment of the fee  
21 specified in s. 440.05 (2), the department examining board shall grant a massage  
22 therapist or ~~bodyworker certificate~~ bodywork therapist license to a person who holds  
23 a similar ~~certificate~~ license in another state or territory of the United States or  
24 another country if the department examining board determines that the

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requirements for receiving the certificate license in the other state, territory, or country are substantially equivalent to the requirements under s. 460.05.

SECTION 42. 460.095 of the statutes is created to read: <sup>training program</sup> <sup>B</sup>

<sup>4</sup> **460.095 Massage therapy and bodywork therapy school and instructor**  
<sup>5</sup> **requirements.** <sup>Each</sup> Massage therapy or bodywork therapy school <sup>located in this state</sup>  
 shall do all of the following: <sup>and each massage therapy and bodywork therapy training program offered in this state</sup>

(1) Provide and require as a prerequisite to graduation completion of a course of instruction on state laws and regulations applicable to massage therapy and bodywork therapy.

(2) Administer, score, and require as a prerequisite to graduation, the examination required under s. 460.06 (2).

(3) Require the following employees of the school <sup>or training program</sup> to satisfy the following requirements:

(a) Instructors <sup>hired on or after the effective date of this paragraph... [LRB insert date]</sup> <sup>to teach</sup> ~~teaching~~ courses in anatomy, physiology, kinesiology, and pathology shall have any of the following:

1. Professional training and 2 years of experience in a health-related field.
2. Two years of post-secondary education and training.

(b) Instructors teaching courses in theory and the practice of massage therapy or bodywork therapy shall be licensed under the chapter and have any of the following:

1. Two years experience as a practicing professional.
2. Formal education and training as a massage therapy or bodywork therapy

instructor.

SECTION 43. 460.10 of the statutes is renumbered 460.10 (1) <sup>(intro.)</sup> and amended to

read:

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no (B)

(intro.)

1

~~460.10 Continuing education~~ (1) The department examining board may2 promulgate rules establishing requirements all of the following:

3 (a) Requirements and procedures for a certificate license holder to complete  
4 continuing education programs or courses of study to qualify for renewal of his or her  
5 certificate license. The rules promulgated under this paragraph may not require a  
6 license holder to complete more than 24 hours of continuing education program or  
7 courses of study in order to qualify for renewal of his or her license.

8 (2) The department examining board may waive all or part of any requirement  
9 established in rules promulgated under this section sub. (1) (a) if it determines that  
10 prolonged illness, disability, or other exceptional circumstances have prevented a  
11 certificate license holder from completing the requirement.

12 SECTION 44. 460.10 (1) (b) of the statutes is created to read:

13 460.10 (1) (b) Qualifications applicable to providers of continuing education  
14 programs and courses required under par. (a).

15 SECTION 45. 460.11 of the statutes is amended to read:

16 460.11 Practice requirements. (1) A certificate license holder may not  
17 practice massage therapy or bodywork therapy on a client unless the certificate  
18 license holder first obtains the informed consent of the client and has informed the  
19 client that he or she may withdraw the consent at any time.

20 (2) A certificate license holder shall keep confidential any information that a  
21 client in confidence gives to the certificate license holder and any other information  
22 that the certificate license holder obtains about a client in the course of practicing  
23 massage therapy or bodywork therapy that a reasonable person in the client's  
24 position would want kept confidential, unless the information is otherwise required

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1 by law to be disclosed or the client specifically authorizes the disclosure of the  
2 information.

3 (3) A ~~certificate~~ license holder may not, whether for compensation or not,  
4 practice massage therapy or bodywork therapy for a sexually oriented business, as  
5 defined by the ~~department~~ examining board by rule.

6 **SECTION 46.** 460.12 (1), (2), (3), (4) and (5) (b) of the statutes are amended to  
7 read:

8 **460.12 Duty to make reports.** (1) A ~~certificate~~ license holder shall submit  
9 a report to the ~~department~~ examining board if he or she has reasonable cause to  
10 believe that another ~~certificate~~ license holder has committed a crime relating to  
11 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual  
12 intercourse with a client. If the report relates to sexual contact or sexual intercourse  
13 with a client, the report may not identify the client unless the client has provided  
14 written consent for disclosure of this information.

15 (2) The ~~department~~ examining board may use a report made under sub. (1) as  
16 the basis for an investigation under s. 460.14 (1). If, after an investigation, the  
17 ~~department~~ examining board has reasonable cause to believe that a ~~certificate~~  
18 license holder has committed a crime, the ~~department~~ examining board shall report  
19 the belief to the district attorney for the county in which the crime, in the opinion of  
20 the ~~department~~ examining board, occurred.

21 (3) If, after an investigation, the ~~department~~ examining board determines that  
22 a report submitted under sub. (1) is without merit, the ~~department~~ examining board  
23 shall remove the report from the record of the ~~certificate~~ license holder who is the  
24 subject of the report.



**BILL**

1           (4) All reports and records made from reports under sub. (1) and maintained  
2 by the examining board, the department, district attorneys, and other persons,  
3 officials, and institutions shall be confidential and are exempt from disclosure under  
4 s. 19.35 (1). Information regarding the identity of a client with whom a ~~certificate~~  
5 license holder is suspected of having sexual contact or sexual intercourse shall not  
6 be disclosed by persons who have received or have access to a report or record unless  
7 disclosure is consented to in writing by the client. The report of information under  
8 sub. (1) and the disclosure of a report or record under this subsection does not violate  
9 any person's responsibility for maintaining the confidentiality of patient health care  
10 records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and  
11 records may be disclosed only to the examining board, the department, and the  
12 appropriate staff of a district attorney or a law enforcement agency within this state  
13 for purposes of investigation or prosecution.

14           (5) (b) A ~~certificate~~ license holder shall submit a written report to the  
15 ~~department~~ examining board if he or she is convicted of a felony or misdemeanor, or  
16 is found to have committed a violation, in this state or elsewhere, and if the  
17 circumstances of the felony, misdemeanor, or violation substantially relate to the  
18 practice of massage therapy or bodywork therapy. The report shall identify the date,  
19 place, and nature of the conviction or finding and shall be submitted within 30 days  
20 after the entry of the judgment of conviction or the judgment finding that he or she  
21 committed the violation. If the report is submitted by mail, the report is considered  
22 to be submitted on the date that it is mailed.

23           **SECTION 47.** 460.13 of the statutes is amended to read:

24           **460.13 Advertising.** ~~A certificate~~ Except as provided in s. 460.03 (1m) (a) and  
25 (b), a license holder may not advertise that he or she practices massage therapy or

**BILL****SECTION 47**

1 bodywork therapy unless the advertisement includes ~~his or her certificate number~~  
2 and a statement that the ~~certificate~~ license holder is a "~~certified~~ licensed massage  
3 therapist and ~~bodyworker~~ bodywork therapist" or "~~certified~~ licensed massage  
4 therapist" or "~~certified bodyworker~~ licensed bodywork therapist."

5 **SECTION 48.** 460.14 (1) of the statutes is amended to read:

6 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the ~~department~~  
7 examining board may make investigations and conduct hearings to determine  
8 whether a violation of this chapter or any rule promulgated under this chapter has  
9 occurred.

10 **SECTION 49.** 460.14 (2) (intro.) of the statutes is amended to read:

11 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
12 ~~department~~ examining board may reprimand a ~~certificate~~ license holder or deny,  
13 limit, suspend, or revoke a ~~certificate~~ license under this chapter if it finds that the  
14 applicant or ~~certificate~~ license holder has done any of the following:

15 **SECTION 50.** 460.14 (2) (a) of the statutes is amended to read:

16 460.14 (2) (a) Made a material misstatement in an application for a ~~certificate~~  
17 license or for renewal of a ~~certificate~~ license.

18 **SECTION 51.** 460.14 (2) (b) of the statutes is amended to read:

19 460.14 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an  
20 offense the circumstances of which substantially relate to the practice of massage  
21 therapy or bodywork therapy.

22 **SECTION 52.** 460.14 (2) (e) of the statutes is amended to read:

23 460.14 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage  
24 therapy or bodywork therapy while his or her ability to practice was impaired by  
25 alcohol or other drugs.

**BILL**

1           **SECTION 53.** 460.14 (2) (h) of the statutes is amended to read:

2           460.14 (2) (h) Engaged in conduct while practicing massage therapy or  
3 bodywork therapy that jeopardizes the health, safety, or welfare of a client or that  
4 evidences a lack of knowledge of, inability to apply, or the negligent application of,  
5 principles or skills of massage therapy or bodywork therapy.

6           **SECTION 54.** 460.14 (2m) (intro.) of the statutes is amended to read:

7           460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
8 department examining board shall revoke a certificate license under this chapter if  
9 the certificate license holder is convicted of any of the following:

10          **SECTION 55.** 460.14 (3) of the statutes is amended to read:

11          460.14 (3) The department examining board may restore a certificate license  
12 that has been suspended or revoked on such terms and conditions as the department  
13 examining board may deem appropriate.

14          **SECTION 56.** 460.14 (4) of the statutes is repealed.

15          **SECTION 57.** 460.15 (1) of the statutes is renumbered 460.15 and amended to  
16 read:

17          **460.15 Penalties Penalty.** ~~Except as provided in sub. (2), any~~ Any person who  
18 violates this chapter or any rule promulgated under this chapter shall forfeit not  
19 more than \$1,000 for each violation.

20          **SECTION 58.** 460.15 (2) of the statutes is repealed.

21          **SECTION 59.** 460.17 of the statutes is amended to read:

22          **460.17 Local regulation.** A city, village, town, or county may not enact an  
23 ordinance that regulates the practice of massage therapy or bodywork therapy by a  
24 person who is issued a certificate licensed by the department examining board under  
25 this chapter. No provision of any ordinance enacted by a city, village, town, or county

**BILL****SECTION 59**

1 that is in effect before February 1, 1999, and that relates to the practice of massage  
2 therapy or bodywork therapy, may be enforced against a person who is issued a  
3 certificate licensed by the department examining board under this chapter.

4 **SECTION 60.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

5 895.48 **(1m)** (a) (intro.) Except as provided in par. (b), any physician or athletic  
6 trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed  
7 under ch. 447, emergency medical technician licensed under s. 256.15, first  
8 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,  
9 registered nurse licensed under ch. 441, or a massage therapist or ~~bodyworker~~ issued  
10 ~~a certificate~~ bodywork therapist licensed under ch. 460 who renders voluntary health  
11 care to a participant in an athletic event or contest sponsored by a nonprofit  
12 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001  
13 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655  
14 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that  
15 care if all of the following conditions exist:

16 2. The physician, athletic trainer, chiropractor, dentist, emergency medical  
17 technician, first responder, physician assistant, registered nurse, massage therapist  
18 or ~~bodyworker~~ bodywork therapist does not receive compensation for the health care,  
19 other than reimbursement for expenses.

20 **SECTION 61.** 908.03 (6m) (a) of the statutes is amended to read:

21 908.03 **(6m)** (a) *Definition.* In this subsection, "health care provider" means  
22 a massage therapist or ~~bodyworker~~ issued ~~a certificate~~ bodywork therapist licensed  
23 under ch. 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447,  
24 a physician assistant licensed under ch. 448, or a health care provider as defined in  
25 s. 655.001 (8).

**BILL****SECTION 62. Nonstatutory provisions.**

(1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding section 460.05 (1) (e) of the statutes, as affected by this act, and section 460.05 (1) (f) of the statutes, the massage therapy and bodywork therapy examining board shall grant a license under section 460.05 of the statutes, as affected by this act, to a person who no later than the first day of the 13th month beginning after the effective date of this paragraph provides sufficient evidence to the massage therapy and bodywork therapy examining board that the person satisfies one of the following requirements:

(a) The person was actively engaged in the practice of massage therapy or bodywork therapy by practicing for an average of 10 hours per week for at least 10 years.

(b) The person passed a nationally administered entry-level competency assessment examination that meets generally accepted psychometric principles and standards.

(c) The person was actively engaged in the practice of massage therapy or bodywork therapy by practicing for an average of 10 hours per week for at least 3 years and successfully completed a 200-hour licensure program approved by the examining board.

(d) At least 180 days before the effective date of this paragraph, the person graduated from a massage therapy or bodywork therapy training program that consisted of at least 600 hours of training.

**SECTION 63. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

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**INSERT 9-23**

(b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)

1. Rules promulgated under this paragraph shall require the training program to  
meet the requirements under s. 460.095 and to consist of at least 600 classroom  
hours.

History: 2001 a. 74; 2007 a. 104.

**INSERT 14-12**

(3) Ensure that each instructor hired by the school or training program on or  
after the effective date of this subsection .... [LRB inserts date] to teach courses in  
anatomy, physiology, kinesiology, and pathology has at least one of the following:

(a) Professional training and 2 years of experience in a health-related field.

(b) Two years of post-secondary education and training.

(4) Ensure that each instructor hired by the school or training program on or  
after the effective date of this subsection .... [LRB inserts date] to teach courses in  
theory and the practice of massage therapy or bodywork therapy is licensed under  
this chapter and has at least one of the following:

(a) Two years experience as a practicing professional.

(b) Formal education and training as a massage therapy or bodywork therapy  
instructor.



State of Wisconsin  
2009 - 2010 LEGISLATURE

3  
LRB-0273/2

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2009 BILL

3/31/09  
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Regen.

1 AN ACT *to repeal* 460.04 (3), 460.04 (4), 460.05 (3), 460.14 (4) and 460.15 (2); *to*  
2 *renumber and amend* 15.407 (7), 460.01 (1), 460.01 (2), 460.03, 460.04 (1),  
3 460.06, 460.10 and 460.15 (1); *to amend* 15.08 (1m) (b), 146.81 (1) (hp), 146.997  
4 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1) (ar) 1., 440.03 (13) (b) 38., 440.08 (2)  
5 (a) 46r., chapter 460 (title), 460.01 (3), 460.01 (4), 460.02, 460.04 (title), 460.04  
6 (2) (intro.), (a), (b) and (e), 460.05 (title), 460.05 (1) (intro.), 460.05 (1) (c), 460.05  
7 (1) (e), 460.05 (1) (g), 460.05 (2), 460.07 (1), 460.07 (2) (intro.), 460.07 (2) (c),  
8 460.07 (2) (d), 460.09, 460.11, 460.12 (1), (2), (3), (4) and (5) (b), 460.13, 460.14  
9 (1), 460.14 (2) (intro.), 460.14 (2) (a), 460.14 (2) (b), 460.14 (2) (e), 460.14 (2) (h),  
10 460.14 (2m) (intro.), 460.14 (3), 460.17, 895.48 (1m) (a) (intro.) and 2. and 908.03  
11 (6m) (a); and *to create* 15.405 (6r) (a) 2., 460.01 (1g), 460.03 (1m) (c), 460.03  
12 (2m), 460.04 (1m), 460.04 (2) (f), 460.04 (2) (g), 460.08, 460.095 and 460.10 (1)  
13 (b) of the statutes; **relating to:** changes to the regulation of massage therapy

**BILL**

- 1 and bodywork, creating the Massage Therapy and Bodywork Therapy  
2 Examining Board, and granting rule-making authority.
- 

***Analysis by the Legislative Reference Bureau***

This bill makes a number of changes to the regulation of massage therapists and bodyworkers.

Under current law, a person may be certified as a massage therapist or bodyworker by the Department of Regulation and Licensing (department). The department is served in an advisory capacity by the Massage Therapy and Bodywork Council, which reviews and may comment on any rules proposed by the department. The council consists of seven members who are certified as massage therapists or bodyworkers.

The bill creates a Massage Therapy and Bodywork Therapy Examining Board (board) in the department and transfers rule-making powers to the board. The bill directs the board to license, not certify, persons who fulfill the requirements for licensure as massage therapists or bodyworker therapists. The bill also permits the board to grant a temporary license to practice massage therapy or bodywork therapy for a period not to exceed six months, and requires the board to establish requirements for temporary licensure by rule.

This bill changes uses of the term, "massage therapy or bodywork," to "massage therapy or bodywork therapy," and changes uses of the term, "bodyworker," to "bodywork therapist."

The bill requires one of the seven members of the board to be a representative of a massage therapy or bodywork therapy school approved by the Educational Approval Board, and one member of the board to be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members of the board may be affiliated with a massage therapy or bodywork therapy school or program. The bill also requires one member of the board to be a member of the public.

Current law prohibits a person who is not certified by the department from designating himself or herself as a massage therapist or bodyworker or using any title that represents that he or she is certified. With one exception noted below, this bill permits persons who are exempt from the licensing requirement to use the terms, "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice. The bill also creates the following two new exemptions from the licensing requirement:

1. A person who manipulates only the soft tissue of the hands, feet, and ears. Persons who fall under this exemption may not represent or imply that their services are massage therapy or bodywork therapy.

2. A person whose practice involves the use of touch or touch and movement to assist and bring body awareness to his or her clients and who is recognized by a professional organization or credentialing association after that person has demonstrated an adequate level of training and competency.



**BILL**

Under current law, an applicant for certification must have passed an examination offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination administered by the National Commission for Certifying Agencies. This bill requires an applicant for licensure to achieve a passing grade on a nationally administered entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the board. The bill also requires all applicants for a license to pass an examination on state laws and rules governing massage therapy and bodywork therapy. The bill requires the board to prepare the state examination. The bill further requires massage therapy and bodywork therapy schools in Wisconsin to provide and require as a prerequisite to graduation the completion of a course on the state laws and rules and to administer, require as a prerequisite to graduation, and grade the state examination.

Under current law, there are no requirements governing massage therapy or bodywork therapy instructors in Wisconsin. This bill requires instructors teaching courses in anatomy, physiology, kinesiology, and pathology at a school of massage therapy or bodywork therapy to have completed two years of post-secondary education and training or to have professional training and two years of experience in a health-related field. The bill also requires instructors teaching courses in the theory and practice of massage therapy or bodywork therapy at a school of massage therapy or bodywork therapy to be licensed as a massage therapist or bodywork therapist and either two years as a practicing professional or formal education and training as a massage therapy or bodywork therapy instructor.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:

2           15.08 (1m) (b) The public members of the chiropractic examining board, the  
3           dentistry examining board, the hearing and speech examining board, the medical  
4           examining board, perfusionists examining council, respiratory care practitioners  
5           examining council and council on physician assistants, the board of nursing, the  
6           massage therapy and bodywork therapy examining board, the nursing home  
7           administrator examining board, the veterinary examining board, the optometry  
8           examining board, the pharmacy examining board, the marriage and family therapy,  
9           professional counseling, and social work examining board, and the psychology

**BILL****SECTION 1**

1 examining board shall not be engaged in any profession or occupation concerned with  
2 the delivery of physical or mental health care.

3 **SECTION 2.** 15.405 (6r) (a) 2. of the statutes is created to read:

4 15.405 **(6r)** (a) 2. One public member.

5 **SECTION 3.** 15.407 (7) of the statutes is renumbered 15.405 (6r), and 15.405 (6r)  
6 (a), (b) (intro.), 2. and 3., as renumbered, are amended to read:

7 15.405 **(6r)** ~~MASSAGE THERAPY AND BODYWORK COUNCIL~~ THERAPY EXAMINING BOARD.

8 (a) There is created a massage therapy and bodywork ~~council~~ therapy examining  
9 board in the department of regulation and licensing, serving the department in an  
10 ~~advisory capacity.~~ The ~~council~~ examining board shall consist of the following 7  
11 members, appointed for 4-year terms, who are:

12 1. Six massage therapists or bodyworkers certified bodywork therapists  
13 licensed under ch. 460 and who have engaged in the practice of massage therapy or  
14 bodywork therapy for at least 2 years preceding appointment. One member  
15 appointed under this subdivision shall be a representative of a massage therapy or  
16 bodywork therapy school approved by the educational approval board under s. 38.50.  
17 One member appointed under this subdivision shall be a representative of a massage  
18 therapy or bodywork therapy program offered by a technical college in this state. No  
19 other members appointed under this subdivision shall be directly or indirectly  
20 affiliated with a massage therapy or bodywork therapy school or program.

21 (b) (intro.) In appointing members under par. (a), the governor shall ensure, to  
22 the maximum extent practicable, that the membership of the ~~council~~ examining  
23 board is diverse, based on all of the following factors:

24 2. Affiliation and nonaffiliation with a professional association for the practice  
25 of massage therapy or bodywork therapy.

**BILL**

1           3. Professional associations with which massage therapists or ~~bodyworkers~~  
2 bodywork therapists in this state are affiliated.

3           **SECTION 4.** 146.81 (1) (hp) of the statutes is amended to read:

4           146.81 (1) (hp) A massage therapist or ~~bodyworker~~ certified bodywork  
5 therapist licensed under ch. 460.

6           **SECTION 5.** 146.997 (1) (d) 13. of the statutes is amended to read:

7           146.997 (1) (d) 13. A massage therapist or ~~bodyworker~~ bodywork therapist  
8 issued a certificate licensed under ch. 460.

9           **SECTION 6.** 180.1901 (1m) (ag) of the statutes is amended to read:

10          180.1901 (1m) (ag) The ~~department of regulation and licensing~~ massage  
11 therapy and bodywork therapy examining board under ch. 460.

12          **SECTION 7.** 252.15 (1) (ar) 1. of the statutes is amended to read:

13          252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does  
14 not include a massage therapist or ~~bodyworker~~ bodywork therapist ~~issued a~~  
15 certificate licensed under ch. 460.

16          **SECTION 8.** 440.03 (13) (b) 38. of the statutes is amended to read:

17          440.03 (13) (b) 38. Massage therapist or ~~bodyworker~~ bodywork therapist.

18          **SECTION 9.** 440.08 (2) (a) 46r. of the statutes, as affected by 2007 Wisconsin Act  
19 20, is amended to read:

20          440.08 (2) (a) 46r. Massage therapist or ~~bodyworker~~ bodywork therapist:  
21 March 1 of each odd-numbered year.

22          **SECTION 10.** Chapter 460 (title) of the statutes is amended to read:

23                                   **CHAPTER 460**

24                                   **MASSAGE THERAPY AND BODYWORK THERAPY**

**BILL****SECTION 11**

1           **SECTION 11.** 460.01 (1) of the statutes is renumbered 460.01 (2m) and amended  
2 to read:

3           460.01 (2m) “Certificate License holder” means a person granted a certificate  
4 license under this chapter.

5           **SECTION 12.** 460.01 (1g) of the statutes is created to read:

6           460.01 (1g) “Adjunctive therapy” means any of the following:

7           (a) The use of a device that simulates or enhances a manual action.

8           (b) The application of water, lubricants, or other nonprescription topical agents  
9 to the skin.

10          (c) The application of heat or cold to the skin in the absence of an  
11 electromagnetic device.

12          **SECTION 13.** 460.01 (2) of the statutes is renumbered 460.01 (1r) and amended  
13 to read:

14          460.01 (1r) “Council Examining Board” means the massage therapy and  
15 bodywork ~~council~~ therapy examining board.

16          **SECTION 14.** 460.01 (3) of the statutes is amended to read:

17          460.01 (3) “Manual action” includes holding, positioning, rocking, kneading,  
18 compressing, decompressing, gliding, or percussing the soft tissue of the human body  
19 or applying a passive range of motion to the human body without joint mobilization  
20 or manipulation.

21          **SECTION 15.** 460.01 (4) of the statutes is amended to read:

22          460.01 (4) “Massage therapy or bodywork therapy” means the science and  
23 healing art that uses manual actions and adjunctive therapies to palpate and  
24 manipulate the soft tissue of the human body, in order to improve circulation, reduce  
25 tension, relieve soft tissue pain, or increase flexibility, ~~and.~~ “Massage therapy or

## BILL

1 bodywork therapy" includes determining whether ~~massage therapy or bodywork is~~  
2 manual actions and adjunctive therapies are appropriate or contraindicated, or  
3 whether a referral to another health care practitioner is appropriate. "Massage  
4 therapy or bodywork therapy" does not include making a medical, physical therapy,  
5 or chiropractic diagnosis.

6 **SECTION 16.** 460.02 of the statutes is amended to read:

7 **460.02 Certificate License required.** Except as provided in s. 460.03, no  
8 person may provide massage therapy or bodywork therapy, designate himself or  
9 herself as a massage therapist or ~~bodyworker~~ bodywork therapist, or use or assume  
10 the title "massage therapist and ~~bodyworker~~ bodywork therapist" or "massage  
11 therapist" or "~~bodyworker~~ bodywork therapist" or any title that includes "massage  
(12) therapist", bodywork therapist, or "bodyworker," or append to the person's name the  
13 letters "M.T.," "R.M.T.," "L.M.T.," "C.M.T.," "B.W.," "B.T.," "B.W.," "L.B.W.," "R.B.W.,"  
14 or "C.B.W.," or use any other title or designation that represents or may tend to  
15 represent that he or she is ~~certified~~ licensed under this chapter, unless the person is  
16 ~~certified~~ licensed under this chapter.

17 **SECTION 17.** 460.03 of the statutes is renumbered 460.03 (1m) and amended  
18 to read:

19 460.03 (1m) (intro.) A certificate license under this chapter is not required for  
20 any of the following:

21 (a) A person holding a license, permit, registration, or certification granted by  
22 this state or the federal government who engages in a practice of massage therapy  
23 or bodywork therapy within the scope of his or her license, permit, registration, or  
24 certification and who does not imply that he or she is ~~certified~~ licensed under this  
25 chapter. A person who is exempt from licensure under this subsection may use the

**BILL****SECTION 17**

1 terms “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her  
2 practice.

3 (b) A person who is authorized to practice massage therapy or bodywork  
4 therapy in another state or country and is providing a consultation to or  
5 demonstration with a certificate license holder. A person who is exempt from  
6 licensure under this subsection may use the terms “bodywork,” “bodyworker,” and  
7 “bodywork therapy” to identify his or her practice.

8 **SECTION 18.** 460.03 (1m) (c) of the statutes is created to read:

9 460.03 (1m) (c) A person who manipulates only the soft tissues of the hands,  
10 feet, or ears of the human body, provided that the services are not represented or  
11 implied to be massage therapy or bodywork therapy.

12 **SECTION 19.** 460.03 (2m) of the statutes is created to read:

13 460.03 (2m) (a) A person who does any of the following and who satisfies the  
14 requirements of par. (b):

15 1. Uses touch, words, and directed movement to deepen a client’s awareness  
16 of his or her existing patterns of movement and to suggest to the client new patterns  
17 of movement.

18 2. Uses touch to affect the energy systems or acupoints of the human body.

19 3. Uses touch and movement education to effect change in the structure of the  
20 body while engaged in the practice of structural integration.

21 (b) The person is recognized by or meets the established standards of either a  
22 professional organization or credentialing association that recognizes a person in a  
23 practice after that person demonstrates an adequate level of training and  
24 competency and adherence to ethical standards. In this paragraph, “practice” means  
25 rolfing structural integration, the rolf method of structural integration, the rolf

**BILL**

1 institute's rolf movement integration, hellerwork, the feldenkrais method, the trager  
2 approach, body-mind centering, polarity, polarity therapy, polarity bodywork  
3 therapy, and reiki.

4 (c) A person who is exempt from licensure under this subsection may use the  
5 terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her  
6 practice.

7 **SECTION 20.** 460.04 (title) of the statutes is amended to read:

8 **460.04 (title) Duties of department examining board.**

9 **SECTION 21.** 460.04 (1) of the statutes is renumbered 460.05 (4) and amended  
10 to read:

11 460.05 (4) The ~~department shall~~ examining board may assign a unique  
12 ~~certificate~~ license number to each person ~~certified~~ license under this chapter.

13 **SECTION 22.** 460.04 (1m) of the statutes is created to read:

14 460.04 (1m) The examining board shall prepare an examination on state laws  
15 and administrative rules governing massage therapy or bodywork therapy.

16 **SECTION 23.** 460.04 (2) (intro.), (a), (b) and (e) of the statutes are amended to  
17 read:

18 460.04 (2) (intro.) The ~~department~~ examining board shall promulgate rules  
19 that establish all of the following:

20 (a) Standards that govern the professional conduct of ~~certificate~~ license holders  
21 in practicing massage therapy or bodywork therapy. The standards shall prohibit  
22 a ~~certificate~~ license holder from having sexual contact or sexual intercourse with a  
23 client.

24 (b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)  
25 1. Rules promulgated under this paragraph shall require the training program to

**BILL****SECTION 23**

1 meet the requirements under s. 460.095 and to consist of at least 600 classroom  
2 hours.

3 (e) A requirement that an applicant for a ~~certificate~~ license under this chapter  
4 submit evidence satisfactory to the ~~department~~ examining board that the applicant  
5 has current proficiency in the use of an automated external defibrillator achieved  
6 through instruction provided by an individual, organization, or institution of higher  
7 education approved under s. 46.03 (38) to provide such instruction.

8 **SECTION 24.** 460.04 (2) (f) of the statutes is created to read:

9 460.04 (2) (f) Requirements to be satisfied by a person seeking a temporary  
10 license under s. 460.08. The rules promulgated under this subsection shall require  
11 the person to be a graduate of a massage therapy or bodywork therapy school or  
12 program and may require the holder of a temporary license to make disclosures to  
13 clients and to practice under the supervision of a massage therapist or bodywork  
14 therapist licensed under this chapter.

15 **SECTION 25.** 460.04 (2) (g) of the statutes is created to read:

16 460.04 (2) (g) A requirement that an applicant for a license under this chapter  
17 pass an examination on state laws and administrative rules governing massage  
18 therapy and bodywork therapy.

19 **SECTION 26.** 460.04 (3) of the statutes is repealed.

20 **SECTION 27.** 460.04 (4) of the statutes is repealed.

21 **SECTION 28.** 460.05 (title) of the statutes is amended to read:

22 **460.05 (title) ~~Certification~~ Licensure of massage therapists or**  
23 **~~bodyworkers~~ bodywork therapists.**

24 **SECTION 29.** 460.05 (1) (intro.) of the statutes is amended to read:



**BILL**

1           460.05 (1) (intro.) The ~~department~~ examining board shall grant a ~~certificate~~  
2    license as a massage therapist or ~~bodyworker~~ bodywork therapist to a person who  
3    satisfies all of the following:

4           **SECTION 30.** 460.05 (1) (c) of the statutes is amended to read:

5           460.05 (1) (c) The person submits an application for the ~~certificate~~ license to  
6    the ~~department~~ examining board on a form provided by the ~~department~~ examining  
7    board.

8           **SECTION 31.** 460.05 (1) (e) of the statutes is amended to read:

9           460.05 (1) (e) Except as provided in sub. (2), the person submits evidence  
10   satisfactory to the ~~department~~ examining board that he or she has done all of the  
11   following:

12          1. Graduated from a school of massage therapy or bodywork therapy approved  
13   by the educational approval board under s. 38.50 that meets the requirements under  
14   s. 460.095 or completed a training program approved by the ~~department~~ examining  
15   board under the rules promulgated under s. 460.04 (2) (b).

16          2. Completed at least 6 classroom hours in the laws of this state and rules of  
17   the ~~department~~ examining board relating to the practice of massage therapy or  
18   bodywork therapy in a course of instruction approved by the ~~department~~ examining  
19   board.

20          **SECTION 32.** 460.05 (1) (g) of the statutes is amended to read:

21          460.05 (1) (g) The person submits evidence satisfactory to the ~~department~~  
22   examining board that he or she has in effect malpractice liability insurance coverage  
23   in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all  
24   occurrences in one year.

25          **SECTION 33.** 460.05 (2) of the statutes is amended to read:

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1           460.05 (2) The ~~department~~ examining board may waive a requirement  
2 specified in sub. (1) (e) if a person establishes, to the satisfaction of the ~~department~~  
3 examining board, that he or she has education, training, or other experience that is  
4 substantially equivalent to the requirement.

5           **SECTION 34.** 460.05 (3) of the statutes is repealed.

6           **SECTION 35.** 460.06 of the statutes is renumbered 460.06 (intro.) and amended  
7 to read:

8           **460.06 Examinations.** (intro.) The ~~department~~ examining board may not  
9 grant a ~~certificate~~ license under this chapter unless the applicant ~~passes~~ achieves a  
10 passing grade on the national certification following examinations:

11           (1) A nationally administered, entry-level competency examination for  
12 therapeutic massage and bodywork therapy that is offered by the National  
13 Certification Board for Therapeutic Massage and Bodywork or an examination  
14 relating to the practice of massage therapy or bodywork that is administered by a  
15 national board that is accredited by the National Commission for Certifying  
16 Agencies meets generally accepted psychometric principles and standards or a  
17 substantially equivalent examination approved by the department examining  
18 board.

19           (2) The department shall promulgate rules that also require an applicant to  
20 pass an examination on state laws and administrative rules governing massage  
21 therapy or bodywork therapy required under s. 460.04 (2) (g).

22           **SECTION 36.** 460.07 (1) of the statutes is amended to read:

23           460.07 (1) Each person who is ~~certified~~ licensed under this chapter shall  
24 conspicuously display the ~~certificate~~ license in the place of business where he or she

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1 practices massage therapy or bodywork therapy so that the ~~certificate~~ license can  
2 easily be seen and read.

3 **SECTION 37.** 460.07 (2) (intro.) of the statutes is amended to read:

4 460.07 (2) (intro.) The ~~renewal dates for certificates granted under this chapter~~  
5 ~~are specified under s. 440.08 (2) (a).~~ Renewal applications shall be submitted to the  
6 department on a form provided by the department on or before the applicable  
7 renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

8 **SECTION 38.** 460.07 (2) (c) of the statutes is amended to read:

9 460.07 (2) (c) Evidence satisfactory to the ~~department~~ examining board that  
10 the applicant has in effect malpractice liability insurance coverage in an amount that  
11 is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one  
12 year.

13 **SECTION 39.** 460.07 (2) (d) of the statutes is amended to read:

14 460.07 (2) (d) Evidence satisfactory to the ~~department~~ examining board that  
15 the applicant has current proficiency in the use of an automated external  
16 defibrillator achieved through instruction provided by an individual, organization,  
17 or institution of higher education approved under s. 46.03 (38) to provide such  
18 instruction.

19 **SECTION 40.** 460.08 of the statutes is created to read:

20 **460.08 Temporary license.** The examining board may grant a temporary  
21 license for a period not to exceed 6 months to an applicant who satisfies the  
22 requirements established in the rules under s. 460.04 (2) (f). A temporary license  
23 may not be renewed.

24 **SECTION 41.** 460.09 of the statutes is amended to read:

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## SECTION 41

1           **460.09 Reciprocal certificate.** Upon application and payment of the fee  
2 specified in s. 440.05 (2), the ~~department~~ examining board shall grant a massage  
3 therapist or ~~bodyworker certificate~~ bodywork therapist license to a person who holds  
4 a similar ~~certificate~~ license in another state or territory of the United States or  
5 another country if the ~~department~~ examining board determines that the  
6 requirements for receiving the ~~certificate~~ license in the other state, territory, or  
7 country are substantially equivalent to the requirements under s. 460.05.

8           **SECTION 42.** 460.095 of the statutes is created to read:

9           **460.095 Massage therapy and bodywork therapy school, training**  
10 **program, and instructor requirements.** Each massage therapy or bodywork  
11 therapy school in this state and each massage therapist and <sup>therapy or</sup> bodywork therapy  
12 training program offered in this state located shall do all of the following:

13           (1) Provide and require as a prerequisite to graduation completion of a course  
14 of instruction on state laws and regulations applicable to massage therapy and  
15 bodywork therapy.

16           (2) Administer, score, and require as a prerequisite to graduation, the  
17 examination required under s. 460.06 (2).

18           (3) Ensure that each instructor hired by the school or training program on or  
19 after the effective date of this subsection .... [LRB inserts date], to teach courses in  
20 anatomy, physiology, kinesiology, and pathology has at least one of the following:

21           (a) Professional training and 2 years of experience in a health-related field.

22           (b) Two years of post-secondary education and training.

23           (4) Ensure that each instructor hired by the school or training program on or  
24 after the effective date of this subsection .... [LRB inserts date], to teach courses in

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1 theory and the practice of massage therapy or bodywork therapy is licensed under  
2 this chapter and has at least one of the following:

3 (a) Two years experience as a practicing professional.

4 (b) Formal education and training as a massage therapy or bodywork therapy  
5 instructor.

6 **SECTION 43.** 460.10 of the statutes is renumbered 460.10 (1) (intro.) and  
7 amended to read:

8 460.10 (1) (intro.) The ~~department~~ examining board may promulgate rules  
9 establishing requirements all of the following:

10 (a) Requirements and procedures for a certificate license holder to complete  
11 continuing education programs or courses of study to qualify for renewal of his or her  
12 certificate license. The rules promulgated under this paragraph may not require a  
13 license holder to complete more than 24 hours of continuing education program or  
14 courses of study in order to qualify for renewal of his or her license.

15 (2) The department examining board may waive all or part of any requirement  
16 established in rules promulgated under this section sub. (1) (a) if it determines that  
17 prolonged illness, disability, or other exceptional circumstances have prevented a  
18 certificate license holder from completing the requirement.

19 **SECTION 44.** 460.10 (1) (b) of the statutes is created to read:

20 460.10 (1) (b) Qualifications applicable to providers of continuing education  
21 programs and courses required under par. (a).

22 **SECTION 45.** 460.11 of the statutes is amended to read:

23 **460.11 Practice requirements.** (1) A ~~certificate~~ license holder may not  
24 practice massage therapy or bodywork therapy on a client unless the ~~certificate~~

**BILL****SECTION 45**

1 license holder first obtains the informed consent of the client and has informed the  
2 client that he or she may withdraw the consent at any time.

3 (2) A ~~certificate~~ license holder shall keep confidential any information that a  
4 client in confidence gives to the ~~certificate~~ license holder and any other information  
5 that the ~~certificate~~ license holder obtains about a client in the course of practicing  
6 massage therapy or bodywork therapy that a reasonable person in the client's  
7 position would want kept confidential, unless the information is otherwise required  
8 by law to be disclosed or the client specifically authorizes the disclosure of the  
9 information.

10 (3) A ~~certificate~~ license holder may not, whether for compensation or not,  
11 practice massage therapy or bodywork therapy for a sexually oriented business, as  
12 defined by the ~~department~~ examining board by rule.

13 **SECTION 46.** 460.12 (1), (2), (3), (4) and (5) (b) of the statutes are amended to  
14 read:

15 **460.12 Duty to make reports.** (1) A ~~certificate~~ license holder shall submit  
16 a report to the ~~department~~ examining board if he or she has reasonable cause to  
17 believe that another ~~certificate~~ license holder has committed a crime relating to  
18 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual  
19 intercourse with a client. If the report relates to sexual contact or sexual intercourse  
20 with a client, the report may not identify the client unless the client has provided  
21 written consent for disclosure of this information.

22 (2) The ~~department~~ examining board may use a report made under sub. (1) as  
23 the basis for an investigation under s. 460.14 (1). If, after an investigation, the  
24 ~~department~~ examining board has reasonable cause to believe that a ~~certificate~~  
25 license holder has committed a crime, the ~~department~~ examining board shall report

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1 the belief to the district attorney for the county in which the crime, in the opinion of  
2 the ~~department~~ examining board, occurred.

3 (3) If, after an investigation, the ~~department~~ examining board determines that  
4 a report submitted under sub. (1) is without merit, the ~~department~~ examining board  
5 shall remove the report from the record of the ~~certificate~~ license holder who is the  
6 subject of the report.

7 (4) All reports and records made from reports under sub. (1) and maintained  
8 by the examining board, the department, district attorneys, and other persons,  
9 officials, and institutions shall be confidential and are exempt from disclosure under  
10 s. 19.35 (1). Information regarding the identity of a client with whom a ~~certificate~~  
11 license holder is suspected of having sexual contact or sexual intercourse shall not  
12 be disclosed by persons who have received or have access to a report or record unless  
13 disclosure is consented to in writing by the client. The report of information under  
14 sub. (1) and the disclosure of a report or record under this subsection does not violate  
15 any person's responsibility for maintaining the confidentiality of patient health care  
16 records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and  
17 records may be disclosed only to the examining board, the department, and the  
18 appropriate staff of a district attorney or a law enforcement agency within this state  
19 for purposes of investigation or prosecution.

20 (5) (b) A ~~certificate~~ license holder shall submit a written report to the  
21 ~~department~~ examining board if he or she is convicted of a felony or misdemeanor, or  
22 is found to have committed a violation, in this state or elsewhere, and if the  
23 circumstances of the felony, misdemeanor, or violation substantially relate to the  
24 practice of massage therapy or bodywork therapy. The report shall identify the date,  
25 place, and nature of the conviction or finding and shall be submitted within 30 days

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1 after the entry of the judgment of conviction or the judgment finding that he or she  
2 committed the violation. If the report is submitted by mail, the report is considered  
3 to be submitted on the date that it is mailed.

4 **SECTION 47.** 460.13 of the statutes is amended to read:

5 **460.13 Advertising.** ~~A certificate~~ Except as provided in s. 460.03 (1m) (a) and  
6 (b), a license holder may not advertise that he or she practices massage therapy or  
7 bodywork therapy unless the advertisement includes ~~his or her certificate number~~  
8 ~~and~~ a statement that the ~~certificate~~ license holder is a “~~certified~~ licensed massage  
9 therapist and ~~bodyworker~~ bodywork therapist” or “~~certified~~ licensed massage  
10 therapist” or “~~certified bodyworker~~ licensed bodywork therapist.”

11 **SECTION 48.** 460.14 (1) of the statutes is amended to read:

12 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the ~~department~~  
13 examining board may make investigations and conduct hearings to determine  
14 whether a violation of this chapter or any rule promulgated under this chapter has  
15 occurred.

16 **SECTION 49.** 460.14 (2) (intro.) of the statutes is amended to read:

17 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
18 ~~department~~ examining board may reprimand a ~~certificate~~ license holder or deny,  
19 limit, suspend, or revoke a ~~certificate~~ license under this chapter if it finds that the  
20 applicant or ~~certificate~~ license holder has done any of the following:

21 **SECTION 50.** 460.14 (2) (a) of the statutes is amended to read:

22 460.14 (2) (a) Made a material misstatement in an application for a ~~certificate~~  
23 license or for renewal of a ~~certificate~~ license.

24 **SECTION 51.** 460.14 (2) (b) of the statutes is amended to read:



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1           460.14 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an  
2           offense the circumstances of which substantially relate to the practice of massage  
3           therapy or bodywork therapy.

4           **SECTION 52.** 460.14 (2) (e) of the statutes is amended to read:

5           460.14 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage  
6           therapy or bodywork therapy while his or her ability to practice was impaired by  
7           alcohol or other drugs.

8           **SECTION 53.** 460.14 (2) (h) of the statutes is amended to read:

9           460.14 (2) (h) Engaged in conduct while practicing massage therapy or  
10          bodywork therapy that jeopardizes the health, safety, or welfare of a client or that  
11          evidences a lack of knowledge of, inability to apply, or the negligent application of,  
12          principles or skills of massage therapy or bodywork therapy.

13          **SECTION 54.** 460.14 (2m) (intro.) of the statutes is amended to read:

14          460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the  
15          ~~department~~ examining board shall revoke a ~~certificate~~ license under this chapter if  
16          the ~~certificate~~ license holder is convicted of any of the following:

17          **SECTION 55.** 460.14 (3) of the statutes is amended to read:

18          460.14 (3) The ~~department~~ examining board may restore a ~~certificate~~ license  
19          that has been suspended or revoked on such terms and conditions as the ~~department~~  
20          examining board may deem appropriate.

21          **SECTION 56.** 460.14 (4) of the statutes is repealed.

22          **SECTION 57.** 460.15 (1) of the statutes is renumbered 460.15 and amended to  
23          read:

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## SECTION 57

*stays*  
**460.15 Penalties** ~~Penalty~~ Except as provided in sub. (2), any ~~Any~~ person who violates this chapter or any rule promulgated under this chapter shall forfeit not more than \$1,000 for each violation.

**SECTION 58.** 460.15 (2) of the statutes is repealed.

**SECTION 59.** 460.17 of the statutes is amended to read:

**460.17 Local regulation.** A city, village, town, or county may not enact an ordinance that regulates the practice of massage therapy or bodywork therapy by a person who is ~~issued a certificate~~ licensed by the ~~department~~ examining board under this chapter. No provision of any ordinance enacted by a city, village, town, or county that is in effect before February 1, 1999, and that relates to the practice of massage therapy or bodywork therapy, may be enforced against a person who is ~~issued a certificate~~ licensed by the ~~department~~ examining board under this chapter.

**SECTION 60.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

895.48 **(1m)** (a) (intro.) Except as provided in par. (b), any physician or athletic trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed under ch. 447, emergency medical technician licensed under s. 256.15, first responder certified under s. 256.15 (8), physician assistant licensed under ch. 448, registered nurse licensed under ch. 441, or a massage therapist or ~~bodyworker~~ issued a certificate bodywork therapist licensed under ch. 460 who renders voluntary health care to a participant in an athletic event or contest sponsored by a nonprofit corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that care if all of the following conditions exist:

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1           2. The physician, athletic trainer, chiropractor, dentist, emergency medical  
2           technician, first responder, physician assistant, registered nurse, massage therapist  
3           or ~~bodyworker~~ bodywork therapist does not receive compensation for the health care,  
4           other than reimbursement for expenses.

5           **SECTION 61.** 908.03 (6m) (a) of the statutes is amended to read:

6           908.03 (6m) (a) *Definition.* In this subsection, "health care provider" means  
7           a massage therapist or ~~bodyworker issued a certificate~~ bodywork therapist licensed  
8           under ch. 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447,  
9           a physician assistant licensed under ch. 448, or a health care provider as defined in  
10          s. 655.001 (8).

11          **SECTION 62. Nonstatutory provisions.**

12          (1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding  
13          section 460.05 (1) (e) of the statutes, as affected by this act, and section 460.05 (1) (f)  
14          of the statutes, the massage therapy and bodywork therapy examining board shall  
15          grant a license under section 460.05 of the statutes, as affected by this act, to a person  
16          who no later than the first day of the 13th month beginning after the effective date  
17          of this paragraph provides sufficient evidence to the massage therapy and bodywork  
18          therapy examining board that the person satisfies one of the following requirements:

19           (a) The person was actively engaged in the practice of massage therapy or  
20           bodywork therapy by practicing for an average of 10 hours per week for at least 10  
21           years.

22           (b) The person passed a nationally administered entry-level competency  
23           assessment examination that meets generally accepted psychometric principles and  
24           standards.

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## SECTION 62

(c) The person was actively engaged in the practice of massage therapy or bodywork therapy by practicing for an average of 10 hours per week for at least 3 years and successfully completed a 200-hour licensure program approved by the examining board.

(d) At least 180 days before the effective date of this paragraph, the person graduated from a massage therapy or bodywork therapy training program that consisted of at least 600 hours of training.

**SECTION 63. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

**(END)**

# D-Note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0273<sup>3</sup>2dn  
TKK:kjf: ~~\_\_\_\_\_~~

*Date*

Rep. Kaufert:

X This draft replaces "therapy or" for "therapist and" in proposed s. 460.095 (intro.)  
(found on page 14, line 11 of LRB-0273/2).

Please let me know if you have any questions or need to make any additional changes.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0273/3dn  
TKK:kjf:md

April 1, 2009

Rep. Kaufert:

This draft replaces "therapy or" for "therapist and" in proposed s. 460.095 (intro.) (found on page 14, line 11 of LRB-0273/2).

Please let me know if you have any questions or need to make any additional changes.

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